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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,638	10/31/2003	Rex Wesley Shores	31849.35	3375

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

EXAMINER	
CUMBERLEDGE, JERRY L	
ART UNIT	PAPER NUMBER
3733	

MAIL DATE	DELIVERY MODE
04/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/698,638	SHORES ET AL.	
	Examiner	Art Unit	
	JERRY CUMBERLEDGE	3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *24-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *45 and 46* is/are allowed.

6)☒ Claim(s) *24-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 24-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mickel et al. (US Pat. 6,062,575) in view of Crawford (US Pat. 4,060,219).

Mickel et al. discloses a coupling system for connecting a power source to a medical dissection tool (Fig. 1A), the coupling system comprising: a coupling shaft (Fig. 1A, ref. 60) having a proximal portion, an opposing distal portion, and a longitudinal axis extending therebetween (Fig. 1), wherein a section of the distal portion comprises an external surface and an internal surface (Fig. 1), the internal surface defining an internal passage (Fig. 1A, surrounding ref. 54) for receiving a portion of the medical dissection tool, the coupling shaft further comprising a first aperture (Fig. 1A, ref. 80) extending from the external surface to the internal surface (Fig. 1A); and a first locking member (Fig. 1A, ref. 82) positioned at least partially within the first aperture (Fig. 1A) and movable along the longitudinal axis with respect to the coupling shaft from an unlocked positioned to a locked position to secure the medical dissection tool within the internal passage (Fig. 1A). The first aperture defines a proximal wall portion and a distal wall portion separated by substantially the length of the aperture along the longitudinal axis (Fig. 1A, walls on either side of locking member), the first locking member being spaced

from the proximal wall portion in the unlocked position and spaced from the distal wall portion in the locked position (Fig. 1A). The first locking member is positioned adjacent to the distal wall portion in the unlocked position and adjacent to the proximal wall portion in the locked position (Fig. 1A). The first locking member comprises a spherical ball (Fig. 1A, ref. 82). The coupling shaft further comprises: a second aperture (column 6, lines 19-26) extending from the external surface to the intemal surface, the second aperture having a second length extending substantially along the longitudinal axis and a second width extending substantially transverse to the longitudinal axis, the second length being greater than the second width such that the second aperture is elongated along the longitudinal axis; a third aperture (column 6, lines 19-26) extending from the external surface to the internal surface, the third aperture having a third length extending substantially along the longitudinal axis and a third width extending substantially transverse to the longitudinal axis, the third length being greater than the third width such that the third aperture is elongated along the longitudinal axis; wherein the first, second, and third apertures are equally spaced about a circumference of the coupling shaft (column 6, lines 19-26, e.g. “evenly”). A second locking member (column 6, lines 19-26) positioned at least partially within the second aperture and movable along the longitudinal axis with respect to the coupling shaft from an unlocked positioned to a locked position to secure the medical dissection tool within the internal passage; and a third locking member (column 6, lines 19-26) positioned at least partially within the third aperture and movable along the longitudinal axis with respect to the coupling shaft from an unlocked positioned to a locked position to secure the

medical dissection tool within the internal passage; wherein the first, second, and third locking members comprise spherical balls (Fig. 1A). The coupling system further comprises an engagement sleeve (Fig. 1B, ref. 71) movably engaged with the coupling shaft, the engagement sleeve having a tapered internal contact surface (Fig 1B, ref. 72) for moving the first locking member along the longitudinal axis with respect to the coupling shaft from the unlocked positioned to the locked position. The first locking member is moveable at approximately a 45° angle relative to the longitudinal axis from the unlocked position to the locked position (Fig. 1A, 1B).

Mickel et al. disclose the claimed invention except for the first aperture having a first length extending substantially along the longitudinal axis and a first width extending substantially transverse to the longitudinal axis, the first length being greater than the first width such that the first aperture is elongated along the longitudinal axis. Mickel et al. disclose that the locking member and the apertures are use to couple two devices (abstract).

Crawford disclose a coupling device (Fig. 1) that comprises a locking member (Fig. 1, ref. 144) and an aperture (Fig. 1, near ref. 144) extending in a direction substantially perpendicular to the longitudinal axis of the device, having a first length extending substantially transverse to the longitudinal axis (Fig. 1)(Fig. 7, near ref. 146), the first length being greater than the first width (Fig. 1) (Fig. 7 near ref. 146) such that first aperture is elongated along the longitudinal axis (Fig. 1) (Fig. 7 near ref. 146). The coupling device further comprises a housing (Fig. 1), a spring (Fig. 1, ref. 116), and a

sleeve (Fig. 1, ref. 100). Crawford discloses that this mechanism is used to couple two devices (abstract)(column 4, lines 1-53).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have substituted the locking members and apertures of Mickel et al. with the locking member and aperture of Crawford, in order to achieve the predictable result of coupling two devices.

Furthermore, It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have constructed the assembly of Mickel et al. in view of Crawford having a plurality of apertures and locking members, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

Applicant's arguments filed 01/29/2009 have been fully considered but they are not persuasive.

With regard to Applicant's arguments directed to the apertures, the examiner reasserts that the hole of Crawford can be considered to be substantially perpendicular. Substantially is a broad term. In re Nehrenberg (CCPA) 126 USPQ 383. Furthemore, the claims require that the aperture extend in a direction substantially perpendicular to the longitudinal axis. The aperture of Crawford at least extends in a direction perpendicular to the longitudinal direction as the aperture of Crawford extends in many directions, including a perpendicular direction.

Regarding Applicant's arguments directed to the translation of the locking members, the examiner notes that at least a component of the motion of the locking member of Mickel will be in the longitudinal direction. Furthermore, the examiner notes that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). At the very least, there is motion in the longitudinal direction of the Crawford reference, as the locking component (the ball) may move in a forward backward direction (Crawford, Fig. 1). When combined with the Mickel reference, this type of motion would be performed.

With regard to Applicant's arguments directed to the combination of the Mickel et al. and Crawford references, the examiner notes that the locking mechanisms of both references are involved in the coupling of various components together (i.e. they are coupling mechanisms). It would have been obvious to a person having ordinary skill in the art to substitute one coupling mechanism for another.

Allowable Subject Matter

Claims 45 and 46 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JERRY CUMBERLEDGE whose telephone number is (571)272-2289. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. C./
Examiner, Art Unit 3733
/Eduardo C. Robert/
Supervisory Patent Examiner, Art Unit 3733